IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 20703 of 2007(M)

PETITIONER:

JOHN JACOB, AGED 38, S/O. YACOB,
CHENNILATH PUTHENPURAYIL HOUSE, 1ST MILE,
PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

RESPONDENTS:

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1. PERUMBAVOOR MUNICIPALITY,
MUNICIPAL OFFICE, PERUMBAVOOR, REP. BY
ITS SECRETARY.

2. SUHARA, AGED 39 YEARS, W/O. SIDDIQUE,
CHAKKUMTHENGAL HOUSE, VENGOLA VILLAGE,
ALLAPRA P.O., PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADV. SRI.G.RAJAGOPAL FOR R2
ADV.SRI.V.M.KURIAN FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF THE ORDER NO.PW2-333/06 ON 15-6-06
EXT.P2	TRUE COPY OF THEO RDER IN APPEAL DTD. 11-8-06 DIRECTING THE FIRST RESPONDENT TO GIVE 30 DAYS TIME TO R2 TO REMOVE THE UNAUTHORISED CONSTRUCTION IN THE FRONT SIDE.
EXT.P3	TRUE COPY OF THE JUDGMENT IN W.PC.NO.26214/06
EXT.P4	TRUE COPY OF THE PLAINT IN O.S.NO.161/07 DTD. 26-5-07
EXT.P5	TRUE COPY OF PETITION DTD. 5-6-07 SUBMITTED BY THE PETITIONER BEFORE R1.

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No. 20703 OF 2007

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Dated this the 13th day of July, 2007

JUDGMENT

Petitioner has approached this court praying for a direction to the first respondent to implement Exts.P1 and P2 orders forthwith. Ext.P1 is an order by which the first respondent-Secretary directed demolition of the construction made by the second respondent. The said order was confirmed by Ext.P2 order of the Tribunal. Second respondent challenged the same in a writ petition which culminated in Ext.P3 judgment. In Ext.P3 judgment Ext.P2 order was confirmed. However, it was ordered as follows:

> " The writ petition will stand dismissed. However, there will be a direction to the respondent Municipality not to implement the demolition orders for a period of two more months from today. If the petitioner obtains any specific order from the competent civil court restraining the Municipality in the meanwhile from implementing Ext.P4, Ext.P5, naturally the Municipality will be bound to honour that order.

2. Complaint of the petitioner is that though Ext.P3 judgment is dated 26/03/2007 and there is a direction not to implement the demolitin order for a period of two more months from the date of the judgment, much more time has elapsed, but demolition is not being carried out. There is a reference to the civil suit filed by the second respondent. There is also a mentioning of interlocutory application for injunction. It is also stated that the application is being posted. It is submitted by the counsel for the second respondent that the civil suit was indeed filed within two months as revealed from Ext.P4 plaint and the matter stands posted to 17/07/2007 for orders on the interlocutory application. It is submitted by the second respondent that second respondent has done what the second respondent can do namely the filing of the suit and the filing of the application for injunction.

3. I heard learned counsel for the Municipality also. He would submit that proceedings have been initiated for implementing Ext.P1 order as confirmed by Exts.P2 and P3.

The writ petition is disposed of as follows:

The first respondent will proceed with the steps said to have

been taken for implementing Ext.P2 order without any undue delay. In view of the fact that the direction of this court was not to implement the demolition order for a period of two months from 26/03/2007 and there can be no legal bar on the basis of Ext.P3 judgment to proceed with the demolition.

(K.M.JOSEPH, JUDGE)

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